

1 Who do you have next, Mr. Horan?

2 BY MR. HORAN: Hold on just a minute, Judge.

3 BY MR. EVANS: Clemmie Fleming, Judge.

4 BY THE COURT: Okay.

5 JURY ENTERS THE COURTROOM.

6 BY THE COURT: Who did you say?

7 BY MR. EVANS: Clemmie Fleming. I believe
8 they have already gone after her.

9 BY THE COURT: Ms. Fleming, have you been
10 sworn?

11 BY THE WITNESS: No.

12 BY THE COURT: Would you raise your right
13 hand.

14 CLEMMIE FLEMING,

15 a black female called to testify as a witness by the State of
16 Mississippi, having first been duly sworn, testified as
17 follows, to-wit:

18 BY THE COURT: Have a seat, there.

19 BY MR. EVANS: May I proceed?

20 BY THE COURT: Yes, sir.

21 DIRECT EXAMINATION BY MR. EVANS:

22 Q. Ms. Fleming, where do you live?

23 A. In Winona.

24 Q. And have you lived in Winona most of your life?

25 A. All my life.

26 BY THE COURT: You need to speak up, Ms.
27 Fleming.

28 BY MR. EVANS:

29 Q. Ms. Fleming, I want to direct your attention

1 specifically to the day of the murders at Tardy Furniture in
2 Winona. Do you remember that day?

3 A. Yes.

4 Q. Now the Court Reporter has got to take down
5 everything, so be sure and speak out so she can hear you;
6 okay?

7 A. (Witness nods her head.)

8 Q. All right, Ms. Fleming, did you have an occasion to
9 go down by Tardy Furniture on the day of the killings?

10 A. Yes, sir.

11 Q. Approximately what time did you go down in front of
12 Tardy Furniture?

13 A. Around 10 o'clock.

14 Q. Were you by yourself or with someone?

15 A. With Roy Harris.

16 Q. All right, Roy Harris was driving you?

17 A. Yes, sir.

18 Q. Why did you go down to Tardy Furniture?

19 A. Because I owed on a bill.

20 Q. Okay, pull the mike just a little bit closer to
21 you. You are soft spoken, and it doesn't pick up real good.
22 Did you actually go in Tardy Furniture?

23 A. No, sir.

24 Q. Why did you not go in Tardy Furniture?

25 A. I didn't feel like it.

26 Q. Okay, would you explain your condition at that time
27 to the ladies and gentlemen of the jury so they will know why
28 you didn't feel like it?

29 A. I was pregnant.

1 Q. Okay. When y'all went down in front of Tardy
2 Furniture, which direction were you going?

3 A. We went down toward Carrollton-- we was going, we
4 went down towards Carrollton Avenue.

5 Q. Okay, were you in front of Tardy Furniture or
6 beside, behind or where?

7 A. We went down on the side of Tardy's.

8 Q. Okay. When you were leaving Tardy Furniture, did
9 you see anyone?

10 A. Curtis Flowers.

11 Q. You saw Curtis Flowers?

12 A. Uh-hum.

13 Q. Do you know Curtis Flowers?

14 A. Yes.

15 Q. Do you see him in the courtroom?

16 A. Right there.

17 BY MR. EVANS: May the record reflect that she
18 has identified the Defendant, Curtis Flowers?

19 **BY THE COURT:** Let the record reflect that.

20 BY MR. EVANS:

21 Q. As of the day of the murders at Tardy Furniture,
22 how long had you known Curtis Flowers?

23 A. Every since I was old enough to know.

24 Q. Every since you was old enough to know?

25 A. (Witness nods her head.)

26 Q. What was Curtis Flowers doing when you left Tardy
27 Furniture with Roy Harris?

28 A. Running.

29 Q. Running? How was he running?

1 A. Like somebody was after him.

2 Q. And where was this Defendant running like somebody
3 was after him?

4 A. I don't know where he was running.

5 Q. Now I'm not asking you where he was running to.
6 Where did you see him running?

7 A. On Carrollton Avenue.

8 Q. In relationship to Tardy Furniture, where was he
9 when you saw him running?

10 A. 92 feet away from the building.

11 Q. How many feet?

12 A. 92 feet away from the building.

13 Q. Have you gone back with someone that measured it?

14 A. Yes, sir.

15 Q. And you pointed out where you saw him when you
16 first saw him running?

17 A. Yes, sir.

18 BY MR. LUMUMBA: Judge, these are all leading
19 questions. I object.

20 BY THE COURT: It's leading, but I'm going to
21 allow it. Go ahead.

22 BY MR. EVANS:

23 Q. When you saw the Defendant Curtis Flowers running,
24 was he running toward or away from Tardy Furniture?

25 A. He was running away from it.

26 Q. He was running away from Tardy Furniture?

27 A. Yes, sir.

28 Q. And this was about what time?

29 A. 10 o'clock.

1 BY MR. EVANS: One moment, Your Honor.

2 (State's Counsel confer briefly.)

3 BY MR. EVANS:

4 Q. Ms. Fleming, I show you Exhibit D-11 and ask you to
5 look at this photograph. Can you tell what that photograph
6 shows?

7 A. A car in the road.

8 Q. No, I'm talking about the whole photograph, the
9 buildings and all.

10 A. The dry cleaning.

11 Q. Okay, is that Hunger's Dry Cleaners that is next to
12 Tardy Furniture?

13 A. Yes, sir.

14 Q. All right. Is that the same street in that
15 photograph that you saw the Defendant running down?

16 BY MR. LUMUMBA: Objection, Judge--

17 BY THE WITNESS:

18 A. --Yes, sir.

19 BY MR. LUMUMBA: --The questions are leading.

20 BY THE COURT: Okay, that is leading now.

21 BY MR. EVANS:

22 Q. Do you see the street on that photograph that you
23 saw the Defendant running down?

24 A. Yes, sir.

25 Q. Would you step down and point out to the ladies and
26 gentlemen of the jury approximately where you saw the
27 Defendant running on that photograph.

28 BY MR. EVANS: May the witness step down, Your
29 Honor?

1 **BY THE COURT:** Yes.

2 BY MR. EVANS:

3 Q. If you would, I would like for you to hold the
4 picture up, and as you show the jury, walk down so that
5 everybody can see. Point to the approximate place on that
6 photograph that you saw him running.

7 A. Right here. (Witness points while standing in
8 front of the jury.)

9 Q. Okay, give me just a second. You can just stand
10 there for just a second. I would like for you to take this
11 marker and put an "X" in the approximate place that you saw
12 the Defendant Curtis Flowers running.

13 A. (Witness marks on photograph.)

14 Q. Okay. You may take your seat.

15 (Photographs shown to Defense Counsel.
16 Exhibit D-11 was passed to the jury.)

17 A. (Witness resumes witness stand.)

18 Q. Ms. Fleming, after the saw the Defendant Curtis
19 Flowers running away from Tardy's, which direction did you
20 and Roy Harris go?

21 A. We went up to, um, up Church Street and down Powell
22 Street.

23 Q. Okay, and did you, did you see the Defendant at any
24 other time after that?

25 A. Like we was at Jeff's store, and he was like fixing
26 to coming across the street.

27 Q. All right, would you describe to the ladies and
28 gentlemen of the jury where Jeff's store is?

29 A. On 51.

1 Q. Okay, on 51? And how long a period of time after
2 you saw him running from the store, did you see him up there
3 about Jeff's store?

4 A. It was pretty quick. I don't know.

5 Q. As close as you can estimate. It doesn't have to
6 be exact.

7 A. Like 5 minutes.

8 Q. Okay. When he was running, how was he running?
9 And by that what I mean was it a slow run? Was it a jog?
10 Was it running wide open? How was he running?

11 A. He was running wide open.

12 BY MR. EVANS: No further questions.

13 BY MR. LUMUMBA: May I proceed, Judge?

14 BY THE COURT: Yes, sir.

15 CROSS-EXAMINATION BY MR. LUMUMBA:

16 Q. Good afternoon, Ms. Fleming.

17 A. Good afternoon.

18 Q. Ms. Fleming, I believe isn't it true that you--
19 well, first of all, let me ask you this. Do you know a
20 person by the name of Stacey Wright?

21 A. Yes, I do.

22 Q. And actually Stacey Wright is a friend of yours,
23 isn't she?

24 A. Yes, not real close friend, but yeah.

25 Q. And didn't you tell Stacey Wright that you had just
26 told that story to the police about Curtis because you
27 thought that you either might get some reward money or that
28 you might get, they might not make you pay for your
29 furniture?

1 A. No.

2 Q. Okay, I see. But now you do owe, you did owe
3 Tardy's some furniture money, didn't you?

4 A. My brother supposed to have been paying it off.

5 Q. Well, now let me, let's take this one step at a
6 time. You owe for the furniture, for the--

7 A. --uh-huh, and my co-signer was going to pay it off.

8 Q. But you owed the money; right?

9 A. Uh-hum.

10 Q. And you haven't paid it?

11 A. Uh-uh.

12 Q. And in fact, have you paid them yet?

13 A. Uh-uh. My brother supposed to have been paying. I
14 don't know if he paid.

15 Q. My question is have you paid it yet?

16 A. Uh-uh.

17 Q. Now if I understand what you have just told this
18 jury correctly, at the time you did live near a guy by the
19 name of Roy Harris; is that correct?

20 A. Yes.

21 Q. And also he has a girlfriend that he lives with by
22 the name of Bingham; is that right?

23 A. Yes, sir.

24 Q. What is her first name?

25 A. Belinda.

26 Q. Belinda Bingham; is that correct?

27 A. Yes, sir.

28 Q. And if I understand correctly, that they live like
29 outside of town; right?

1 A. They do now.

2 Q. Well, they lived outside-- okay, and so it was a
3 good little ways that you had to drive to get to Tardy's; is
4 that right?

5 A. Yeah.

6 Q. And the people that called you either that day or
7 the day before, and they had told you-- in fact, it may have
8 been that day. They called you and told you you had to get
9 down there and pay on that furniture or they--

10 BY MR. HORAN: --Your Honor, that is
11 objectionable.

12 BY THE WITNESS: --It was--

13 BY MR. HORAN: --that is hearsay--

14 BY THE COURT: --Wait, wait.

15 BY MR. HORAN: Objection. It is hearsay.

16 BY MR. LUMUMBA: It is not offered for the
17 truth of the matter asserted therein, Judge. It is
18 offered to show her motivation of activities.

19 BY MR. EVANS: The fact that she owed a bill?

20 BY THE COURT: Well, I mean the hearsay for
21 that, that would have to come from the witness
22 stand. What he is objecting to is what you said;
23 is that right?

24 BY MR. HORAN: That's right.

25 BY MR. EVANS: Yes, sir.

26 BY THE COURT: Okay. Sustained.

27 BY MR. LUMUMBA: Okay, well, this is
28 cross-examination. I can lead her.

29 BY THE COURT: You can lead her; absolutely.

1 BY MR. LUMUMBA:

2 Q. Well, let me ask you this. You went down to the
3 store; is that right?

4 A. Yes.

5 Q. Somebody had called you; isn't that right?

6 A. Called me?

7 Q. About your bill.

8 A. They called me the day before.

9 Q. About your bill?

10 A. Yes, sir.

11 Q. Said that you had to pay it?

12 A. Yes.

13 Q. Said that if you didn't pay it, they were going to
14 take the furniture?

15 A. Yes.

16 Q. And so what you are telling us is that you had, and
17 you had somebody take you all the way to the store from this
18 house where you lived?

19 A. Yes.

20 Q. Which was at a good distance from the store; right?

21 A. It ain't that far.

22 Q. And you had them drive you all the way to the
23 store; right?

24 A. Yes.

25 Q. And I think what you told me or Mr. Freelon before
26 you actually paid them to take you to the store?

27 A. Yes.

28 Q. You paid them to take you to the store, and
29 according to you, you pull up in front of the store?

1 A. Yes.

2 Q. And you don't get out to go in to pay a bill that
3 they told you that you have got to pay or they are going to
4 take your furniture?

5 A. Yes, because I rode with his girlfriend all the
6 time, and she was going to take me anyway.

7 Q. They had told you you had to pay that bill or they
8 were going to take your furniture; right?

9 A. Uh-hum.

10 Q. And you go all the way up to the store. You don't
11 go in to pay it; right? Is that right?

12 A. Yes.

13 Q. Is that what you want to tell the jury?

14 A. I was going to pay it, yeah.

15 Q. But you didn't. You are right in front of the
16 store, and you don't get out and go pay it--

17 A. --no--

18 Q. --because you are not feeling good; right?

19 A. Yes.

20 Q. And you don't send him in to pay it?

21 A. Uh-uh.

22 Q. And so after getting right in front of the store,
23 you ride away. Is that what you are telling me?

24 A. Yes.

25 Q. Now by the way, you knew about the reward; right?

26 A. I didn't know right-- I didn't, I don't never
27 believe stuff like that.

28 Q. But you had heard about it?

29 A. Yeah.

1 Q. Okay, I see. In any event, you owed Tardy money.
2 You didn't pay them that day, and to this date you haven't
3 paid them?

4 A. Uh-uh.

5 Q. I'm sorry?

6 A. No.

7 Q. Do you have a friend by the name of Latarsha?

8 A. Tasha who?

9 Q. Pardon?

10 A. Tarsha Blissett?

11 Q. Yeah.

12 A. Yes.

13 Q. The name is Bliss; right?

14 A. Blissett.

15 Q. Blissett, right. Do you have a friend by the name
16 of Tarsha Blissett; right?

17 A. Yes.

18 Q. And you told her, did you not, that you were doing
19 this so you wouldn't have to pay any money back to Tardy?

20 A. No.

21 Q. She is still your friend, isn't she?

22 A. She don't come around that much.

23 Q. And so you were riding with Roy Harris; isn't that
24 correct?

25 A. Yes, sir.

26 Q. And that's what you want, you are telling the
27 ladies and gentlemen of the jury?

28 A. Yes, sir.

29 Q. Roy Harris is kind of a, he is a black man, and he

1 is older than you; is that correct?

2 A. Yes.

3 Q. And in fact, he has a hard time hearing; is that
4 correct?

5 A. Yes.

6 Q. You left, according to your story as I understand
7 it, about going into the store and all, you leave and go
8 somewhere else; is that right?

9 A. Yes.

10 Q. Okay. Now wouldn't it be more truthful to say that
11 actually you never did go to the store, or what you did is
12 you went over to your sister's house immediately? I mean he
13 drove you to your sister's house; right?

14 A. I went over there.

15 Q. But you didn't go to the store, did you? You
16 didn't even go in front of the store, did you?

17 A. Yes, I went to the store.

18 Q. So Roy would know because he was driving the car;
19 right?

20 A. Yes.

21 Q. And then what happened is that you went to your
22 sister's house; right?

23 A. Yes.

24 Q. And I think that what you have told us before is
25 that after going to your sister's house, you stayed there for
26 a little while. Then Roy came and got you and took you back
27 home; is that right?

28 A. Uh-hum.

29 Q. I'm sorry?

1 A. He came and got me.

2 Q. And you went back home?

3 A. Uh-hum.

4 Q. And the only thing you did was stay at your
5 sister's house for however much time and then went back home
6 which, was it across the street from where Roy and Ms.
7 Bingham live?

8 A. Yes, sir.

9 Q. And that's where you went?

10 A. Uh-hum.

11 Q. And your sister is Mary Wilson-- Mary Williams?

12 A. Mary Fleming.

13 Q. I'm sorry. Excuse me; you are right. Mary
14 Fleming; is that correct?

15 A. Yes, sir.

16 Q. And so how did you find out about the Tardy's?

17 A. I was at home sleep, and when I woke up, his
18 girlfriend was telling me about it.

19 Q. Okay. So now isn't it a fact that what actually
20 happened is that when he took you over to your sister's
21 house, then what happened is that your sister or somebody
22 else indicated to you that something had happened at Tardy,
23 and you guys all went together around the corner--

24 A. --no--

25 Q. --and saw the police out there?

26 A. No. I went over to her house. I came to her
27 house.

28 Q. Okay, I see. But your sister didn't take you
29 around the corner, or you didn't go around the corner with

1 them to see what had happened at Tardy's?

2 A. No.

3 Q. And your sister is Mary Fleming?

4 A. Yes.

5 Q. And you say that Ms. Bingham told you about it? Is
6 that what you are saying?

7 A. Uh-hum. She woke me up and told me.

8 Q. And that would be Mr. Harris' girlfriend?

9 A. Yes.

10 (Defense Counsel confer briefly.)

11 BY MR. LUMUMBA:

12 Q. Now let me see; now you said this was around 10
13 o'clock; is that right?

14 A. Yes.

15 Q. Okay, and you saw Curtis running?

16 A. Uh-hum.

17 Q. You didn't see him in a brown car?

18 A. I ain't see him in no brown car.

19 Q. You didn't see him getting in a car?

20 A. No.

21 Q. Or going to a car?

22 A. No.

23 Q. You saw him out there running?

24 A. (Witness nods her head.)

25 Q. Okay, and of course, you don't know what kind of
26 clothes he had on or anything like that?

27 A. No.

28 Q. You saw him twice, but you don't know how he was
29 dressed?

1 A. No. I just know his face when I see him.

2 Q. I'm sorry?

3 A. I know his face when I see him.

4 Q. I see. You still haven't paid that bill at
5 Tardy's?

6 A. Uh-huh.

7 BY MR. LUMUMBA: I don't have any further
8 questions right now.

9 REDIRECT EXAMINATION BY MR. EVANS:

10 Q. Ms. Fleming, you talked to the officers and told
11 them who you saw running from the store; is that correct?

12 A. Yes, sir.

13 Q. Who did you tell the officers you saw running from
14 the store?

15 A. I told John--

16 BY MR. LUMUMBA: --Judge, objection. That is
17 not, that is improper redirect. I didn't raise
18 anything about her talking to officers on
19 cross-examination.

20 BY MR. EVANS: He is trying to impeach her
21 identification.

22 BY MR. LUMUMBA: I'm not, I am trying to--
23 there is no question I am impeaching her, but--

24 BY MR. EVANS: --He is not impeaching; he is
25 trying.

26 BY MR. LUMUMBA: --Excuse me; excuse me.
27 Well, time will tell.

28 **BY THE COURT:** Well--

29 BY MR. LUMUMBA: --But let me say this. Can

1 we--

2 **BY THE COURT:** Somebody besides y'all will
3 decide that.

4 **BY MR. LUMUMBA:** Can we approach?

5 (CONFERENCE AT THE BENCH OUT OF THE HEARING OF
6 THE JURY AS FOLLOWS:)

7 **BY MR. HORAN:** He has tried to show interest
8 and bias by asking about this reward money--

9 **BY MR. LUMUMBA:** Then ask her about the reward
10 money. I have got a problem with, you know, like
11 leaving stuff for redirect which they should have
12 asked in direct.

13 **BY THE COURT:** Well, I would have a problem
14 with that too. I am trying to decide whether you
15 opened it up.

16 **BY MR. LUMUMBA:** Okay, I didn't say anything
17 about officers--

18 **BY THE COURT:** What was your question?

19 **BY MR. EVANS:** The question was did you tell
20 the officers--

21 **BY THE COURT:** --But I mean I just didn't hear
22 you.

23 **BY MR. EVANS:** Did you tell the officers who
24 you saw running from the store, or who did you tell
25 the officers you saw running from the store.

26 **BY MR. HORAN:** He has attacked her on who was
27 present, what she saw, things like that.

28 **BY MR. EVANS:** See, he has tried and even
29 though he hasn't put any witnesses on, he has

1 attacked her on telling other people that she
2 didn't see this. So we are entitled to go back and
3 rehabilitate--

4 BY MR. LUMUMBA: --Well, Judge, let me say,
5 this is how it goes. Let me see if I can say.
6 They are entitled to put on prior-- first of all,
7 statements which are consistent are generally not
8 admitted if they are prior statements because they
9 are self serving. They are entitled to put on a
10 prior consistent under certain circumstances, and I
11 have got it right here in the rule book. One of
12 those circumstances is where we have impeached her,
13 and then they are trying to rehabilitate her if the
14 statement comes to the time prior to the time that
15 the motive to lie would have occurred and then to--

16 BY THE COURT: --I don't know that he has
17 asked any questions to impeach her.

18 BY MR. LUMUMBA: Not yet. Not yet.

19 BY MR. HORAN: Judge, he has asked her if she
20 lied about it and made a false statement for the
21 purpose of gaining money.

22 BY THE COURT: Well, maybe I missed that
23 question.

24 BY MR. EVANS: He definitely asked that two
25 times--

26 BY MR. LUMUMBA: --Excuse me; excuse me.

27 BY THE COURT: Excuse me, Mr. Horan.

28 BY MR. LUMUMBA: Well, Judge, Judge.

29 BY MR. HORAN: I wasn't talking about that.

1 BY MR. LUMUMBA: If she denied it. I have not
2 impeached her. She denied that. The thing that
3 would impeach her, if somebody gets on the stand
4 and said she made such a statement --

5 BY MR. EVANS: Uh-uh.

6 BY MR. LUMUMBA: Excuse me; excuse me. At the
7 time that somebody gets on the stand and says she
8 made such a statement, then they are entitled to
9 come back and rehabilitate her. She doesn't need
10 rehabilitating yet. She has denied that she ever
11 made any statement. Can we--

12 BY THE COURT: That's right.

13 BY MR. HORAN: Look at 613, Judge.

14 BY THE COURT: Okay.

15 BY MR. HORAN: That is not correct.

16 BY THE COURT: Okay.

17 (Pause while the Court reads.)

18 BY MR. HORAN: I'm through. Read the rule.

19 BY THE COURT: I did. I read A. What you
20 want me to read, A or B?

21 BY MR. HORAN: That is not the right rule.

22 BY THE COURT: I had that feeling.

23 BY MR. HORAN: It's 803, I think. 801, I'm
24 sorry. 801 (d), (d) (1).

25 BY THE COURT: (Pause while the Court reads.)
26 Okay, but the question is not whether it's hearsay.

27 BY MR. HORAN: That's right. It's not
28 hearsay. It's--

29 BY THE COURT: --No, it's whether it's proper

1 redirect.

2 BY MR. EVANS: The only issue there is it's
3 something they covered. They covered why she told
4 that, and if they are attacking her saying that it
5 didn't happen, we should be able to go in and
6 verify that she has told other people it did. See,
7 he is trying to say she told other people it
8 didn't. So we are entitled to show that she told
9 other people it did.

10 BY MR. HORAN: That's exactly right.

11 BY MR. LUMUMBA: The state of the record is
12 that she said that she never told anybody
13 anything. That is the testimony. My question--

14 BY THE COURT: --Why wouldn't it be proper
15 rebuttal but not proper redirect? That's my
16 question.

17 BY MR. EVANS: Well, it would be proper either
18 way.

19 BY MR. LUMUMBA: No.

20 BY THE COURT: Well, at this time there is no
21 evidence that she did that though. That's what I'm
22 saying. At some point, at some time if they put
23 somebody on who says, oh, yeah, she said that, you
24 can come back and put her on in rebuttal. But if
25 she denies the statement, if she denies she even--
26 I know what you are saying. They are inferring
27 that, but I think he is right. In the state of the
28 record she has denied it and until somebody, until
29 somebody says that she lied about it, she has

1 denied it. You have got nothing to prove.

2 BY MR. EVANS: Whichever way the Court rules.
3 My only argument was that, you know, he had simply
4 opened the door to us, and it is not even opening
5 the door because for redirect, we can cover
6 anything that they have mentioned on cross.

7 BY THE COURT: And if she had-- yeah, but--

8 BY MR. LUMUMBA: I didn't mention anything
9 about police statements.

10 BY THE COURT: It didn't. It is just not
11 proper redirect, but it is subject to rebuttal.

12 BY MR. EVANS: Yes, sir. Thank you.

13 END BENCH CONFERENCE.

14 BY THE COURT: The objection is sustained.

15 CONTINUED REDIRECT BY MR. EVANS:

16 Q. You were asked by opposing Counsel about going to
17 the store to pay a bill?

18 A. Yes, sir.

19 Q. And is that why you went to the store the morning
20 of the murders?

21 A. Yes, sir.

22 Q. And again, to make sure I understand and the jury
23 understands, why did you not stop and go in the store once
24 you got in front of Tardy Furniture?

25 A. Because I didn't feel like it.

26 Q. How far along were you in your pregnancy?

27 A. 5 months.

28 Q. 5 months?

29 A. (Witness nods her head.)

1 Q. Opposing Counsel has asked you if you told a couple
2 of different people that you didn't actually see this. Has
3 anyone approached you and asked you to lie?

4 A. My sister.

5 Q. And what is your sister's name?

6 BY MR. LUMUMBA: Objection, Judge.

7 BY THE WITNESS:

8 A. Mary Fleming.

9 BY MR. LUMUMBA: Excuse me; excuse me. Excuse
10 me; excuse me. Objection. First, what is he
11 talking about?

12 BY THE COURT: Okay, let me see y'all back up
13 here.

14 (CONFERENCE AT THE BENCH OUT OF THE HEARING OF
15 THE JURY AS FOLLOWS:)

16 BY MR. LUMUMBA: Judge, now if he would have
17 asked if the people who-- see, I mentioned two
18 people who she had told that to.

19 BY MR. HORAN: Three.

20 BY MR. LUMUMBA: No, just two. The two people
21 that I mentioned were Latarsha Blissett and Stacey
22 Wright. I'm going to call them. Mary Fleming was
23 not mentioned as a person who she had told anything
24 to. Mary Fleming is--

25 BY THE COURT: --Mary Fleming was mentioned as
26 to what?

27 BY MR. EVANS: Uh-hum.

28 BY THE COURT: As to what though?

29 BY MR. LUMUMBA: As her sister.

1 **BY THE COURT:** I understand that.

2 BY MR. LUMUMBA: Okay, she went over to her
3 sister's house, and I asked her if she went to her
4 sister's house and if her sister took her around
5 the corner to see the thing, and she said no, that
6 her sister didn't take her around the corner. I
7 didn't ask her about any statement she made to her
8 sister or any conversation.

9 **BY THE COURT:** I don't remember that either.

10 BY MR. LUMUMBA: There was no conversation
11 to--

12 BY MR. EVANS: --Your Honor, he has asked
13 about any statements that were made, and he is
14 accusing her of lying. So at this point I think we
15 are entitled to ask if we have asked her to lie or
16 anyone--

17 **BY THE COURT:** --But he hasn't accused her of
18 lying yet unless I missed something.

19 BY MR. EVANS: Yes, sir. Yes, sir.

20 **BY THE COURT:** Where? What statement that he
21 has made?

22 BY MR. EVANS: When he asked her two or three
23 different times if she told different people that
24 she made this up. That is accusing her of lying
25 for the money. Now we are entitled clearly to go
26 back in and ask her if anybody has asked her to
27 lie.

28 BY MR. LUMUMBA: He is trying to-- I'm sorry.

29 BY MR. HORAN: --including someone that he has

1 mentioned.

2 BY MR. LUMUMBA: Judge, first of all, let me
3 tell you if there was-- and this is bizarre for
4 like I say, but let me just say this. Let me say
5 this. First of all, they are trying to impeach
6 Mary Williams-- Mary Fleming, I'm sorry, before
7 Mary Fleming even--

8 BY MR. EVANS: --No.

9 BY THE COURT: No, no, no. I don't think that
10 is true.

11 BY MR. LUMUMBA: Okay, okay, but here is the
12 other situation. I can't accuse her of lying.
13 First of all, I didn't. I just asked her a
14 question.

15 BY MR. EVANS: You could have--

16 BY THE COURT: --Did you ask her if she was
17 lying?

18 BY MR. LUMUMBA: I asked her if she told the
19 people that she made the story up. I did, and she
20 said no.

21 BY THE COURT: Okay. That let's it in.
22 That's my opinion.

23 BY MR. FREELON: But not Mary Fleming.

24 BY MR. LUMUMBA: For the two people that I
25 asked--

26 BY THE COURT: --I think once you get into it,
27 you have opened it up for the whole thing.

28 END BENCH CONFERENCE.

29 BY THE COURT: The objection is overruled.

1 BY MR. EVANS: Thank you, Your Honor.

2 BY MR. EVANS:

3 Q. Who asked you to lie about seeing Curtis running?

4 A. Before I came up here? While ago downstairs?

5 BY MR. LUMUMBA: Excuse me, Judge. Excuse me.
6 My objection is also to hearsay. There is clearly
7 an objection to that. No exception to that,
8 hearsay.

9 BY MR. EVANS: Wait until the Court rules.

10 BY THE COURT: Well, he is not asking her to
11 testify as to what was said.

12 BY MR. EVANS: No, sir.

13 BY MR. LUMUMBA: Well, he is asking her to
14 testify if somebody told her to lie, and somebody--
15 that contention itself is that somebody told her
16 something, which is telling her something is a
17 statement which is hearsay.

18 BY THE COURT: It is admissible. I overrule
19 the objection.

20 BY MR. EVANS:

21 Q. Again, who asked you to lie about seeing Curtis
22 running from Tardy's?

23 A. My sister told me to get up there and say--

24 BY MR. LUMUMBA: --Objection.

25 BY MR. EVANS: --All right--

26 BY THE COURT: --Sustained.

27 BY MR. EVANS:

28 Q. The Judge says you can't say what she told you at
29 this point.

1 A. Oh. My sister.

2 Q. Okay, and what is your sister's name?

3 A. Mary Fleming.

4 Q. Is this the same Mary Fleming that he has asked you
5 about a few minutes ago?

6 A. Yes, sir.

7 Q. Is what you told the ladies and gentlemen of the
8 jury about who you saw running from Tardy Furniture the
9 truth?

10 A. Yes, sir.

11 BY MR. EVANS: That's all we have of this
12 witness, Your Honor.

13 BY THE COURT: Okay, I assume she is not
14 finally excused?

15 BY MR. EVANS: No, sir, because what we had
16 talked about.

17 BY THE COURT: Yes, sir. You will need to
18 stay. You can go back to the witness room.

19 WITNESS LEAVES COURTROOM.

20 BY THE COURT: Who will you have next?

21 BY MR. HORAN: James Edward Kennedy. Judge,
22 can either one of the attorneys step outside?

23 BY THE COURT: For the purposes y'all did
24 before? Yeah. Okay.

25 (Mr. Freelon and Mr. Horan left the courtroom
26 briefly, and upon their return, proceedings
27 continued:)

28 BY THE COURT: Have you been sworn?

29 BY THE WITNESS: No.